

**CITY OF SHOREVIEW
MINUTES
REGULAR CITY COUNCIL MEETING
February 1, 2010**

CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Shoreview City Council was called to order by Mayor Martin on February 1, 2010, at 7:01 p.m.

PLEDGE OF ALLEGIANCE

The meeting opened with the Pledge of Allegiance to the flag.

ROLL CALL

The following members were present: Mayor Martin; Councilmembers Huffman, Quigley and Withhart.

Councilmember Wickstrom arrived late.

APPROVAL OF AGENDA

MOTION: by Councilmember Huffman, seconded by Councilmember Quigley to approve the February 1, 2010 agenda as submitted.

ROLL CALL: Ayes - 4 Nays - 0

PROCLAMATIONS AND RECOGNITIONS

There were none.

CITIZEN COMMENTS

Mike Prouty, 3314 Churchill Street, introduced himself as a retired Forest Service worker. He expressed great concern about the emerald ash borer, the worst pest he has seen in his forestry career. It is within flight distance of Shoreview at the University of Minnesota campus and could appear in Shoreview next spring. It flies 5 to 7 miles a year. While he does not want to sound extreme and acknowledges that the City has been working with Professor Harry Johnson, he stated that he would like to assist as much as he can. The Department of Agriculture has a \$2 million program for emerald ash borer and is set up to help communities like Shoreview prepare for it.

Mr. Schwerm thanked Mr. Prouty for offering his expertise, which the City will use. Last fall staff met with representatives from the Department of Agriculture. The City is in the process of

developing a management plan that would be overseen by the Environmental Quality Committee and would include: 1) community education; 2) update the City's ordinance regarding tree removal and treat these as diseased trees; 3) reforestation; 4) possibly re-establish the tree sale program; and 5) encourage planting of diverse species.

Councilmember Wickstrom arrived at 7:14 p.m.

COUNCIL COMMENTS

Mayor Martin:

Noted that the City Engineers of Minnesota Association has named Public Works Director Mark Maloney as the top City Engineer in the State of Minnesota. Mr. Maloney has been with the City for 15 years and has 25 years of engineering expertise. He has been involved in many significant projects. Two recent ones are the pervious concrete roadway that was put in the Woodbridge neighborhood and the zebra mussel screening facility. He is very deserving of this award.

This is a good time to purchase a Community Center membership. There are wonderful bonuses and guest passes being given, and there is a 30% discount on classes.

Councilmember Quigley:

Noted in the recent Lake Johanna Fire Department Annual Report that fire loss for 2009 is the lowest in the last five years. He requested that the entire report be posted on the website.

Councilmember Withhart:

The Shoreview Environmental Quality Community (EQC) is beginning a series of classes that will be held on the third Wednesday of each month at 7:00 p.m. in the Council Chambers. The theme this year is water quality. Information on the classes is posted on the City website.

Councilmember Wickstrom:

Noted that the series being sponsored by the Environmental Quality Committee will be cablecast and aired later.

The Ramsey Conservation District meeting on February 13, 2010, will be on storm water management and retrofitting. She encouraged engineering staff and Councilmembers to attend. She has also notified the Chair of the EQC of the program. The program is limited to 50 people so advance registration is necessary. Information will be posted on the website.

CONSENT AGENDA

Item No. 7, *Approval of Animal Control Services Agreement for 2010*, was pulled for separate discussion.

Councilmember Withhart noted the reduced patrol hours and asked if this will impact citizen calls or change the response time. Mr. Schwerm explained that stray animal requests will continue to be responded to immediately, even after hours.

Mayor Martin asked if the reduced hours reduced the amount of the contract. Mr. Schwerm stated that the expense for this contract in the budget was reduced from \$33,000 to \$27,000.

MOTION: by Councilmember Quigley, seconded by Councilmember Withhart to adopt the consent agenda of February 1, 2010, approving the necessary motions and resolutions:

1. January 11, 2010 City Council Workshop Meeting Minutes
2. January 19, 2010 City Council Meeting Minutes
3. Receipt of Committee/Commission Minutes--
 - Human Rights Commission, November 18, 2009
 - Economic Development Authority, December 14, 2009
 - Human Rights Commission, December 16, 2009
 - Planning Commission, December 22, 2009
 - Public Safety Committee, January 21, 2009
4. Verified Claims in the Amount of \$918,986.02
5. Purchases
6. License Applications
7. Approval of Animal Control Services Agreement for 2010
8. Approve Reapportionment of Assessment--Owasso Blvd. W., CP01-01
9. Approval of Application for Exempt Permit--Island Lake Elementary PTA

VOTE: Ayes - 5 Nays - 0

PUBLIC HEARINGS

There were none.

GENERAL BUSINESS

TEXT AMENDMENT - SECTION 714, RENTAL LICENSING

Presentation by City Planner Kathleen Nordine

The City enacted Section 714, Rental Licensing, in 2003 to address rental housing issues. Staff recently reviewed this section and would recommend the following amendments to improve the ordinance. The 30-day notice of initial inspection would be followed, but the language would be changed to “reasonable notice” for follow-up inspections. If access to the premises is denied by the property owner or tenant, the City would seek a court order for access. Language has been added to remove the time period to address tenant disorderly conduct. Once a license is suspended or revoked, the City has discretion up to one year whether to accept a new application. If a license is not obtained for rental property, or if it is revoked, the City reserves the right for immediate inspection of the unit.

The Economic Development Authority (EDA) reviewed the changes and supports them as improvements to the program. Staff is recommending approval. Enforcement and inspections would be completed in a timelier manner, and addressing non-compliant rental units would be more effective.

Councilmember Huffman stated that the EDA is in agreement overall with the proposed changes. There are a lot of investors in the market buying homes and he would encourage staff to continue to think of ways to find out which homes become rentals.

Mayor Martin stated that the neighborhood is always the first to know when a house or townhouse unit becomes a rental. She encouraged residents to report them to the City.

MOTION: by Councilmember Huffman, seconded by Councilmember Wickstrom to adopt Ordinance No. 863, revising Chapter 700 of the Municipal Code, including Section 714, Rental Licensing, pertaining to the administration and enforcement of the City’s rental licensing program and to authorize publication of an Ordinance Summary.

Discussion:

Councilmember Wickstrom asked staff to note when rental signs appear in yards and check to be sure those properties have a rental license.

ROLL CALL: Ayes: Huffman, Quigley, Wickstrom, Withhart, Martin
Nays: None

**WIRELESS TELECOMMUNICATIONS PERMITS AND APPROVAL OF LEASE -
BUCHER PARK, 5900 MACKUBIN**

Presentation by City Planner Kathleen Nordine

This application is to permit a monopole at Bucher Park with a 10' x 20' lease area for the ground equipment. Bucher Park is zoned R-1 and in the telecommunications district. The monopole would be located at the southeast corner of the hockey rink and would also mount hockey lights. It is proposed to be 60 feet tall with the lights at 50 feet. Antenna would be placed at 60 feet. This proposal complies with adopted standards for architecture, location and height. The monopole is designed with a 29-inch base tapering to 22 inches. This has been reduced as a result of concerns expressed by the Planning Commission. There will be no emergency generator. No interference with emergency safety communications is anticipated. The project complies with FCC standards for interference and emissions.

The Park and Recreation Commission reviewed the application and is supportive of the plan. The concrete pad minimizes ground maintenance. Equipment will be screened by existing mature trees to mitigate visual impact of the tower facility.

The Telecommunications and Technology Committee also reviewed the proposal and stated they supports the fact that more diversity and competition will be added to the broadband marketplace. The Planning Commission reviewed the proposal and recommends approval. Their discussion focused on emissions. Emissions are higher near the monopole than at nearby residences and are similar to cell phone or wireless hot spots. The tower does comply with FCC requirements.

The City hired a consultant, Owl Engineering, to review the application and look at RF interference and emissions and AM radio distortions. It is predicted that there will be no adverse RF interference, including public safety channels and no RF emissions that would be hazardous. Owl Engineering will conduct a compliance review after installation.

Notices were mailed to property owners within 350 feet of the project site. Three comments were received with concerns about RF emissions. RF emissions were regulated in the Telecommunications Act of 1994, and the City's ordinance complies with those FCC requirements. Studies have not identified a public health or safety issue associated with these facilities.

The lease would be for an initial five years with three five-year renewal terms. The annual rent would be \$18,000, with a 5% annual rent escalator. Revenue would go back into the Park Improvement Fund. Staff is recommending approval of the permit with the conditions listed in the staff report, and authorization for the lease execution.

Mr. Garrett Lysiak, Owl Engineering, stated that he conducted a proposed coverage study and found that the proposal will increase coverage and eliminate gaps. That is the first rule of the FCC in determining why a tower is needed in a certain location. Because of citizen complaints about RF measurements, he took measurements in the area. None are above average and with this proposal, the increase will be small and well within the FCC standard. Clearwire plans 400 towers across the metro area, which will provide good coverage.

Councilmember Wickstrom stated that it is important that when people leave Shoreview, they continue to have access.

Councilmember Huffman asked Mr. Lysiak to comment on collocation when competitors come in. **Mr. Lysiak** suggested that the City be forward thinking and plan for multiple users on one tower by adding another 10 feet or constructing it so 10 feet could be added later. He referenced Lino Lakes, which had Qwest build a tower several years ago for an adult education system. Qwest put the tower up and gave it to the City. The City did not charge rent for several years, but when a second provider came, the City captured all the rent.

Mayor Martin asked if co-location would mean that the lease would be with Clearwire. Mr. Schwerm answered that Clearwire would get a lease for tower antenna space, and the City would get a lease for ground space for equipment.

Planning Commissioner Feldsien stated that the Planning Commission did discuss height and voted against 75 feet in Shamrock Park a year ago. A majority of the Planning Commission is opposed to extending the pole higher. The Commission also took testimony on health issues but determined that is beyond the City's control.

Mr. Schwerm noted the Telecommunications and Technology Committee reviewed the proposal and is also supportive. The Telecommunications Committee has a standing position for the City not to become involved in broadband marketplace but does encourage additional competition and supports collocation.

Councilmember Withhart stated that he would be interested in meeting with the Planning Commission for a thorough discussion to develop a policy for collocation. He would prefer to see fewer poles with higher heights.

Councilmember Huffman agreed and stated that one 70-foot pole is better than two 60-foot poles. A better understanding is needed about what and where poles are needed in the future with policies that bring more City control of collocation. He supports this application, but a policy is needed for broader impact.

Councilmember Wickstrom stated that maps are needed that show where coverage exists and who is likely to upgrade. She agreed that policies need to be developed and suggested the Telecommunications Committee look into the issue.

MOTION: by Councilmember Withhart, seconded by Councilmember Huffman to approve the Wireless Telecommunications Facility Permit (WTFP) applications for Clearwire Legacy to install a 60-foot monopole, antennae and equipment at Bucher Park, 5900 Mackubin Street, and to authorize the execution of the ground lease for this site, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is contingent upon the City Council authorizing the lease with Clearwire Legacy LLC, including the 10- by 20-foot monopole and equipment site, and easements for access and utilities.
4. Clearwire shall submit a technical report from a structural engineer detailing the proposed monopole design and attesting to the need for the requested diameter. The report should be submitted prior to issuance of a building permit, and is subject to review by a consultant selected by the City.
5. The monopole height, including antennae, shall not exceed 60 feet above the existing ground level.
6. The conduit from the equipment cabinet to the monopole shall be routed underground.
7. Site utilities shall be installed within the utility easement.
8. The site is subject to confirmation that RF emissions conform to FCC requirements. Clearwire shall notify the City when the system is installed prior to operation. A city selected RF engineer shall be provided access to the site to test RF emissions.
9. A landscape plan shall be submitted for review and approval of the City Planner and Building and Grounds Superintendent prior to issuance of a building permit. The plan shall include a dense planting of native shrubs and a concrete pad extending to the hockey rink boards. A landscape surety shall be submitted to insure the installation of the landscape materials.
10. A permanent emergency power generator shall not be installed on the site. Temporary emergency power generation shall occur on-site only after power outages of 4 or more hours. Clearwire shall notify the City if emergency power is needed to operate the Wireless Telecommunications Facility.
11. The applicant shall enter into a Wireless Telecommunications Facility Agreement with the City.

The approval is based on the following finding:

1. The WTFP complies with adopted City standards for Wireless Telecommunications Facilities, as specified in Section 207.040 of the Municipal Code.

Discussion:

Mayor Martin stated that she does not share the concern of the Planning Commission. An additional 10 feet on a tower of 60 feet would not make that much difference once the equipment is on it. What is important is citing the reason it is located at a particular place and its appearance.

It was the consensus of the Council to discuss this issue at a joint workshop meeting with the Planning Commission.

**WIRELESS TELECOMMUNICATIONS PERMITS AND APPROVAL OF LEASE -
SOUTH WATER TOWER, 745 COUNTY ROAD E**

Presentation by City Planner Kathleen Nordine

This Clearwire application is for collocation on the south water tower site on County Road E east of Victoria. The application also includes a ground lease. Antennae are proposed to be located at 90 feet, which is above other locators on the tower. T-Mobile is on top of the water tower, which is 150 feet in height. The application does comply with collocation and landscaping requirements. The application has been reviewed by the Department of Public Works, and it has been determined that the collocation will not interfere with City operations or the City's water supply. No interference with public safety telecommunications is anticipated. Any RF interference complies with FCC regulations. Owl Engineering reviewed the plan for RF interference and emissions and determined that no adverse impact is expected from RF interference.

Property owners within 350 feet were notified. No comments were received. The Planning Commission reviewed the application and certified compliance with City standards and recommended approval. The City Manager met with the Telecommunications and Technology Committee, which supports increased competition to provide diversity and competition in the broadband marketplace. The site lease is an initial 5-year term with three 5-year renewal periods. The annual rent is \$25,000, with a 5% annual rent escalator. Upon termination of the lease, the site will be restored. To that end, a surety is required that will be put in the Park Improvement Fund. The proposal complies with the Development Code and staff is recommending the permit be granted with authority to execute the lease subject to the conditions listed in the staff report.

Councilmember Wickstrom asked if the lease can be renegotiated after 20 years or extended under the current terms. Ms. Nordine answered that if Clearwire were to remain, the lease would be renegotiated.

Councilmember Huffman asked if the ground equipment would be in a fenced area at the water tower. Mr. Schwerm stated that it is not necessary for a fenced area. The previous Metrocom equipment is being taken out, and Clearwire will reuse the Metrocom platform.

MOTION: by Councilmember Huffman, seconded by Councilmember Wickstrom, to approve the Wireless Telecommunications Facility Permit (WTFP) application for 745 County Road E for Clearwire Legacy to collocate antennae and equipment at the existing structure subject to the conditions below, and to authorize the execution of a ground lease for the site:

1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is contingent upon the City Council authorizing ground leases with Clearwire for the site, including easements for access and utilities.
4. Clearwire will remove the existing equipment from the fenced area and make site improvement per the approved plans at their expense.
5. The lease shall include a restoration surety in the amount of 125% of the City Engineer's estimated cost of restoring the water tower to its current condition.
6. Prior to execution of the lease, Clearwire shall submit to the City construction plans for the WTF, detailing welds and penetrations to the water tower and conforming to the requirements of the City's consultant KLM Engineering. This information will be used to determine the amount of the restoration surety required for inclusion in the lease.
7. The antennae and support structures shall be painted to match the finish on the existing water tower to which they are attached.
8. The site is subject to confirmation that RF emissions conform to FCC requirements. Clearwire shall notify the City when the system is installed, prior to operation. A City selected RF engineer shall be provided access to the site to test RF emissions.
9. A permanent emergency power generator shall not be installed at the site. Temporary emergency power generation shall occur on-site only after power outages of 4 or more hours. Clearwire shall notify the City if emergency power is needed to operate the Wireless Telecommunications Facility.
10. The applicant shall enter into a Wireless Telecommunications Tower/Antenna Agreement with the City for the site.

This approval is based on the following finding:

1. The WTFP collocation complies with adopted City standards for Wireless Telecommunication Facilities, as specified in Section 207.040 of the Municipal Code.

ROLL CALL: Ayes: Wickstrom, Withhart, Huffman, Quigley, Martin
 Nays: None

AUTHORIZATION FOR USE OF ADMINISTRATIVE CITATIONS FOR TRAFFIC OFFENSES

Presentation by City Manager Terry Schwerm

In 2009, the legislature approved a measure to permit city use of administrative citations for traffic offenses under 10 mph over the limit, or for stopline violations. In discussion with the Ramsey County Sheriff's Department and the cities that contract for law enforcement services, it was decided that the use of administrative citations would be another tool for law enforcement to deal with traffic enforcement. The mandated fine amount is set at \$60.00, with the State taking \$20.00. The Sheriff's Department will administer the program, collect the fines and reconcile with the state and city at the end of the year. A third-party impartial hearing officer would hear any challenges to an administrative citation. It is recommended by the Sheriff's Department, especially for the two deputies who work in traffic enforcement. Staff is recommending approval.

One email was received from an individual who is opposed to administrative citations. He felt this would give the Sheriff's Department incentive to issue numerous tickets.

Councilmember Withhart noted that a number of neighborhoods have complained about speeding cars with children playing. He asked if they could be issued on I-694. Mr. Schwerm answered, no, but they can be used on Highway 96, Lexington and other arterial and collector streets within the City.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Withhart to adopt Resolution No. 10-09 authorizing the use of administrative citations for certain offenses and adopt Ordinance No. 862 adding Section 904-- Administrative Citations to the City Code.

ROLL CALL: Ayes: Withhart, Huffman, Quigley, Wickstrom, Martin
 Nays: None

ADJOURNMENT

MOTION: by Councilmember Huffman , seconded by Councilmember Quigley to adjourn the meeting at 8:25 p.m.

ROLL CALL: Ayes - 5 Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 16th DAY OF FEBRUARY 2010.

Terry C. Schwerm
City Manager